



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/662,737	09/15/2000	KIMBO MUNDY	BDE-001CN (431/6)	2466

23370 7590 11/26/2004

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA, GA 30309

EXAMINER

COLBERT, ELLA

ART UNIT	PAPER NUMBER
----------	--------------

3624

DATE MAILED: 11/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/662,737	Applicant(s) MUNDY ET AL. ch	
	Examiner Ella Colbert	Art Unit 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-44 are pending. Claims 1 and 25 -34 have been amended and claims 45 and 46 have been cancelled in this communication filed 09/17/04 as Amendment and Response.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by (US 6,278,982 B1) Korhammer et al, hereafter Korhammer.

With respect to claim 1, Korhammer teaches, a method for aggregating information from a plurality of enterprises offering items for exchange over a network, each enterprise maintaining a separate exchange, each enterprise having an enterprise database for storing information about items available through each separate exchange,

Art Unit: 3624

and each enterprise enabling shoppers to interact directly with each separate exchange to obtain the information about the items; the method comprising: automatically collecting and analyzing the information about the items from the enterprise databases associated with each of the enterprises by use of a host computer, the host computer being in communication with the enterprises over the network, wherein information about a selected item is collected and analyzed from at least two enterprise databases and information about a second selected item that is within a same class as the selected item is collected and analyzed (col. 1, lines 16-24, col. 3, line 66- col. 4, line 36, col. 6, lines 51-66, and fig. 2,(101, 17-26- shows a host computer ...); and storing the information collected from the enterprise databases in a host database, the information being stored in the host database by the host computer(col. 4, lines 46-64 and col. 5, lines 30-57); providing a host graphical user interface through which the shoppers can view, over the network, the information stored in the host database and can specify a class of items (Col. 6, lines 22-27, col. 7, lines 21-33, col. 8, lines 13-27, and fig. 2 (100-101) and fig. 3 (101)). Korhammer does not specifically state a host computer and a host database is shown communicating over an electronics communication network (ECN) in col. 1, lines 38-48 and fig. 1 and fig. 2. However a host computer is well-known in the art as a computer that provides services to others that are linked to it by a network; generally, the more remote of two or more computers that a person is using at once and a database is a file composed of records, each containing fields together with a set of operations for searching, sorting, recombining, and other functions.

Art Unit: 3624

4. Claims 2-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Korhammer in view of (US 6,424,979 B1) Livingston et al, hereafter Livingston.

With respect to claim 2, Korhammer failed to teach, collecting information from the enterprise databases includes crawling HTML page trees. Livingston teaches, collecting information from the enterprise databases includes crawling HTML page trees (col. 12, lines 18-23). It would have been obvious to one having ordinary skill in the art at the time the invention was made for collecting information from the enterprise databases to include crawling HTML page trees in Korhammer as taught by Livingston because this would enable Korhammer to have the data represented as a hierarchical tree, so the system can navigate the tree to retrieve the components it needs to build the page. HTML page trees are well known in the Internet art.

With respect to claim 3, Korhammer failed to teach, wherein collecting information from the enterprise databases includes crawling XML page trees. Livingston teaches, collecting information from the enterprise databases includes crawling XML page trees (col. 9, lines 47-51 and lines 63-54, col. 11, lines 43-52, col. 12, lines 1-23, fig. 4, step 79, fig. 8, steps 174, 176, & 180 and fig. 20). It would have been obvious to one having ordinary skill in the art at the time the invention was made to collect information from the enterprise databases to include crawling XML page trees in Korhammer as taught by Livingston because this would enable Korhammer to have XML data that is represented as a hierarchical tree, so the system can navigate the tree to retrieve the components to build the page and a generator compares the user's

Art Unit: 3624

request to the attributes stored in the XML tags that mark the tree's components and only returns the information. XML page trees are well known in the Internet art.

With respect to claim 4, Korhammer failed to teach, wherein collecting information includes collecting publicly accessible information. Livingston teaches, the wherein collecting information includes collecting publicly accessible information (col. 5, lines 56-62 and col. 8, lines 28-34). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the collecting of information to include collecting publicly accessible information and to modify in Korhammer because such a modification would allow Korhammer to have information displayed to the user with no unnecessary information being presented.

With respect to claim 5, Korhammer failed to teach, wherein collecting information from enterprise databases includes collecting information from auction sites offering items for purchase over the network and the enterprise databases comprise auction databases associated with the auction sites. Livingston teaches, wherein the plurality of enterprises includes auction sites offering items for purchase over the network and having associated auction databases (col. 2, lines 45-65). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the wherein collecting information from enterprise databases includes collecting information from auction sites offering items for purchase over the network and the enterprise databases comprise auction databases associated with the auction sites and to modify in Korhammer because such a modification would allow Korhammer to

Art Unit: 3624

facilitate the on-line presentation of information, intelligent searching, and customization.

With respect to claim 6, Korhammer failed to teach, wherein collecting information from auction databases includes crawling HTML page trees. However, Korhammer does teach an auction. Livingston teaches, HTML page trees (col. 12, lines 18-23), (see claim 2), *supra*.

With respect to claim 7, Korhammer failed to teach, wherein collecting information from auction databases includes crawling XLM page trees (see claims 3 and 6), *supra*.

With respect to claim 8, this dependent claim is rejected for the similar rationale given for claim 4, *supra*.

With respect to claim 9, Korhammer teaches, periodically collecting the information about the items from the enterprise databases and updating the information stored in the host database (col. 5, lines 58-67, col. 6, lines 1-3 and lines 51-66, and col. 9, lines 26-49) (See claim 1), *supra*.

With respect to claim 10, Korhammer teaches, wherein updating the information stored in the host database comprises updating the information stored in the host database with sufficient frequency to enable the shopper to monitor and participate effectively in bidding activity at the auction sites (col. 6, lines 36-50). See claim 9, *supra*.

5. Claims 11-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Korhammer in view of (US 5,835,896) Fisher.

With respect to claim 11, Korhammer failed to teach, dynamically scheduling the collecting of information from the auction databases based upon content of previously collected information.

Fisher teaches, dynamically scheduling the collecting of information from the auction databases based upon content of previously collected information (col. 7, lines 50-65 and col. 8, lines 42-53). It would have been obvious to one having ordinary skill in the art at the time the invention was made to dynamically schedule the collecting of information from the auction databases based upon content of previously collected information and to include in Korhammer because a host computer is well-known in the art as being the main computer in a system of terminals connected by communications links and by including this feature in Korhammer's securities trading system, in order to allow the auction manager to schedule information to the auction database as merchandise items are scheduled for posting and opened for bidding.

With respect to claim 12, Korhammer failed to teach, enabling the host computer to receive an auction watch request from the shoppers and monitoring with the host computer a bidding activity at a specified auction site with regard to a specified item in response to the received auction watch request and displaying the bidding activity to the shopper by way of the host graphical user interface.

Fisher teaches, enabling the host computer to receive an auction watch request from the shoppers and monitoring with the host computer a bidding activity at a specified auction site with regard to a specified item in response to the received auction watch request and displaying the bidding activity to the shopper by way of the host

Art Unit: 3624

graphical user interface (col. 6, lines 39-67). It would have been obvious to one having ordinary skill in the art at the time the invention was made to enable the shopper to enter an auction watch request from the shoppers and monitoring with the host computer a bidding activity at a specified auction site with regard to a specified item in response to the received auction watch request and displaying the bidding activity to the shopper by way of the host graphical user interface and to include in Korhammer's although the word graphical user interface does not appear to be employed, the recited "order book is displayed on the customer's terminal (col. 7, lines 6-20) must have had a GUI in order to function at the time of the invention, hence the inherence of GUI which is well known in the art.

With respect to claim 13, is rejected for the similar rationale given for claim 11, *supra*.

With respect to claim 14, Korhammer failed to teach, enabling the host graphical user interface to accept from the shopper an update request and updating at least a portion of the information stored in the host database substantially in real-time in response to the update requests.

Fisher teaches, enabling the host graphical user interface to accept from the shopper an update request and the updating at least a portion of the information stored in the host database substantially in real-time in response to the update requests (col. 4, lines 32-45, col. 6, lines 31-45, col. 7, lines 66-67, col. 8, lines 1-4). It would have been obvious to one having ordinary skill in the art at the time the invention was made to enable a host graphical user interface to accept from the shopper an update request

Art Unit: 3624

and the updating at least a portion of the information stored in the host database substantially in real-time in response to the update requests and to include in Korhammer's securities trading system, in order to allow the electronic bid information to be placed in the database and to have the auction manager frequently query the database to see if any new bids have been placed then to have the catalog page generator to regenerate a catalog in an electronic auction system. The bid information is sent to the bidder via electronic mail.

With respect to claim 15, is rejected for the similar rationale as given for claim 9, *supra*.

With respect to claim 16, Korhammer failed to teach, enabling the host graphical user interface to accept from the shopper an update request and updating at least a portion of the information stored in the host database substantially in real-time in response to the update requests. Fisher teaches, enabling the host graphical user interface to accept from the shopper an update request and updating at least a portion of the information stored in the host database substantially in real-time in response to the update requests (col. 7, lines 15-23 and lines 32-41). It would have been obvious to one having ordinary skill in the art at the time the invention was made to enable the host graphical user interface to accept from the shopper an update request and updating at least a portion of the information stored in the host database substantially in real-time in response to the update requests and to include in Korhammer's securities trading system, in order to allow the electronic auction system to record the records to show the

Art Unit: 3624

bids and updates of the lot's merchandise catalog page to show the current high bids or bids and to whom such bids are attributable.

With respect to claim 17, Korhammer failed to teach, enabling the host graphical user interface to accept from the shopper an item watch request specifying a particular item for monitoring and monitoring the auction sites to detect if the specified item becomes available for bidding at the auction sites in response to the shopper entering the item watch request from the shopper.

Fisher teaches, enabling host graphical user interface to accept from the shopper an item watch request specifying a particular item for monitoring and monitoring the auction sites to detect if the specified item becomes available for bidding at the auction sites in response to the shopper entering the item watch request from the shopper (col. 7, lines 24-65 and col. 9, lines 36-47). It would have been obvious to one having ordinary skill in the art at the time the invention was made to enable the shopper to enter an item watch request specifying a particular item for monitoring and monitoring the auction sites to detect if the specified item becomes available for bidding at the auction sites in response to the item watch request from the shopper and to include in Korhammer's securities trading system, in order to allow potential customers to watch the merchandise catalog pages and to place bids in an electronic auction system.

With respect to claim 18, Korhammer failed to teach, providing the shopper with notification in response to detecting the specified item becoming available for bidding, wherein the host computer provides the notification by way of a host computer-initiated mechanism different from the host graphical user interface.

Fisher teaches, providing the shopper with notification in response to detecting the specified item becoming available for bidding, wherein the host computer provides the notification by way of a host computer-initiated mechanism different from the host graphical user interface (col. 6, lines 46-65 and col. 11, lines 4-20). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the shopper with notification in response to detecting the specified item becoming available for bidding and wherein the host computer provides the notification by way of a host computer-initiated mechanism different from the host graphical user interface and to include in Korhammer's securities trading system, in order to allow potential customers to watch the merchandise catalog pages and to place bids in an electronic auction system. The bid information is sent to the bidder via electronic mail.

With respect to claim 19, Korhammer failed to teach, enabling the host graphical user interface to accept from the shopper a market watch request specifying a class of items for monitoring and detecting the availability of items within the class of items at the auction sites.

Fisher teaches, enabling the host graphical user interface to accept from the shopper a market watch request specifying a class of items for monitoring and detecting the availability of items within the class of items at the auction sites (col. 7, lines 8-28). It would have been obvious to one having ordinary skill in the art at the time the invention was made and to enable the host graphical user interface to accept from the shopper a market watch request specifying a class of items for monitoring and detecting the availability of items within the class of items at the auction sites include in

Art Unit: 3624

Korhammer's aggregated securities trading system, in order to allow the selection of items to purchase and to list items for sales and prices.

With respect to claim 20, Korhammer failed to teach, distinguishing between newly detected ones of the items from previously detected ones of the items.

Fisher teaches, distinguishing between newly detected ones of the items from previously detected ones of the items (col. 8, lines 42-53). It would have been obvious to one having ordinary skill in the art at the time the invention was made to distinguish between newly detected ones of the items from previously detected ones of the items and to include in Korhammer's securities trading system, in order to allow the selection of items to purchase and to list new items for sale and bidding.

With respect to claim 21, Korhammer failed to teach, providing the shopper with notification regarding detection of the items within the class of items and wherein the host computer provides the notification by way of a host computer-initiated mechanism different from the host graphical user interface.

Fisher teaches, providing the shopper with notification regarding detection of the items within the class of items and wherein the host computer provides the notification by way of a host computer-initiated mechanism different from the host graphical user interface (col. 9, lines 36-47). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the shopper with notification regarding detection of the items within the class of items and wherein the host computer provides the notification by way of a host computer-initiated mechanism different from the host graphical user interface in Korhammer's securities trading system, in order to allow

Art Unit: 3624

potential customers to watch the merchandise catalog pages and to place bids on a class of items in an electronic auction system. The information is sent to the bidder via electronic mail.

With respect to claim 22, this claim is rejected for the similar rationale given for claim 18, *supra*.

With respect to claim 23, Korhammer failed to teach wherein the host computer-initiated mechanism includes at least one of electronic mail, Internet messaging, pager, facsimile, telephone, and Web telephone.

Fisher teaches, the host computer-initiated mechanism includes at least one of electronic mail (col. 2, lines 11-16), Internet messaging, pager, facsimile (col. 1, line 52), telephone (col. 1, line 55), and Web telephone (col. 1, lines 60-67). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a host computer-initiated mechanism that includes at least one of electronic mail, Internet messaging, pager, facsimile, telephone, and Web telephone and to include in Korhammer's securities trading system, in order to allow customers to submit bids and to know the winning bidder or bidders and the losing bidder or bidders.

With respect to claim 24, Korhammer failed to teach, wherein the host computer-initiated mechanism includes providing a hyperlink to the host graphical user interface. Fisher teaches, wherein the host computer-initiated mechanism includes a hyperlink to the host graphical user interface (col. 4, lines 32-45). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the host computer-initiated mechanism include a hyperlink to the host graphical user interface

Art Unit: 3624

and to include in Korhammer's trading system, in order to allow an underlined or otherwise emphasized word or phrase to display another document when clicked with the mouse and the graphical user interface works with the mousable interfaces with pull-down menus, dialog boxes, checkboxes, radio buttons, drop-down list boxes, scroll bars, and scroll boxes which are well known in the art.

With respect to claim 25, Korhammer failed to teach, searching the host database for items within the class of items and displaying auction information with regard to the items within the class of items to the shopper by way of the host graphical user interface. Fisher teaches, searching the host database for items within the class of items and for displaying auction information with regard to the items within the class of items to the shopper by way of the host graphical user interface (col. 7, line 66-col. 8, line 14 and lines 30-41). It would have been obvious to one having ordinary skill in the art at the time the invention was made to search the host database for items within the class of items and for displaying auction information with regard to the items within the class of items to the shopper by way of the host graphical user interface and to modify in Korhammer because such a modification would allow Korhammer to have the ability to access Internet sites and to specify particular items (stocks) and to display the auction information.

With respect to claim 26, Korhammer and Fisher failed to teach, wherein the host graphical user interface accepts from the shopper an indication of specific keywords, but it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the host graphical user interface accept from the shopper

Art Unit: 3624

an indication of specific keywords and to modify in Korhammer because such a modification would allow Korhammer to have the ability to access Internet sites using specific keywords for items.

With respect to claim 27, this dependent claim is rejected for the similar rationale given above for claim 26.

With respect to claim 28, this dependent claim is rejected for the similar rationale given above for claims 26 and 27.

With respect to claim 29, Korhammer failed to teach, wherein the host graphical user interface accepts from the shopper an indication of a particular ones of the auction sites to restrict the class of items. Fisher discloses the host graphical user interface accepting from the shopper an indication of a particular ones of the auction sites to restrict the class of items (col. 7, lines 31-41 and lines 50-57). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the host graphical user interface accept from the shopper an indication of a particular ones of the auction sites to restrict the class of items and to include in Korhammer's securities trading system, in order to allow a shopper when specifying a class of items to call up an index of available merchandise by pressing a button or returning to a central home page.

With respect to claim 30, Korhammer failed to teach, wherein the host graphical user interface accepts from the shopper an indication of a particular type of auction site which the shopper is interested to restrict the class of items.

Fisher teaches, the host graphical user interface accepts from the shopper an indication of a particular type of auction site which the shopper is interested to restrict the class of items (col. 8, lines 42-46, fig. 3, and fig. 6). Also see claim 29, *supra*.

With respect to claim 31, Korhammer failed to teach, wherein the particular type of auction site includes person-to person auctions and business-to-person auctions.

Fisher teaches, the particular type of auction site includes person-to person auctions and business-to-person auctions (col. 4, lines 46-67 and col. 5, lines 1-6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the particular type of auction site to include person-to person auctions and business-to-person auctions and to include in Korhammer's securities trading system, in order to allow the a business in an electronic auction system to award merchandise to a top bidder (person) or a person to award merchandise to another person with the highest bid such as the auctions on e-bay.

With respect to claim 32, Korhammer failed to teach, the host graphical user interface accepts from the shopper an indication of a time frame in which the host computer detects that an item within the class is available at one of the auction sites.

Fisher teaches, the host graphical user interface accepts from the shopper an indication of a time frame in which the host computer detects that an item within the class is available at one of the auction sites (col. 7, lines 1-23 and see claim 19), *supra*.

With respect to claim 33, Korhammer failed to teach, wherein the host graphical user interface accepts from the shopper an indication of at least one of a specific price and a price range for the class of items. Fisher teaches, wherein the host graphical

Art Unit: 3624

user interface accepts from the shopper an indication of at least one of a specific price and a price range for the class of items (col. 4, lines 46-67 and col. 5, lines 1-6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the host graphical user interface accepts from the shopper an indication of at least one of a specific price and a price range for the class of items. Fisher teaches, the host graphical user interface accepts from the shopper an indication of at least one of a specific price and a price range for the class of items and to modify in Korhammer because such a modification would allow Korhammer to view the items and their prices and to place the bids in that price range.

With respect to claim 34, Korhammer teaches, interconnecting at least one host site and the plurality of auction sites by a network (col. 8, lines 47-66). Korhammer failed to teach, providing a host database in communication with the host, searching the plurality of auction sites across the network under the control of a host computer and retrieving auction information from the auction sites, wherein the auction information includes information about a selected item from at least two auction sites and information about a second selected item that is in a same class as the selected item; extracting data items from the auction information, the data items comprising information associated with items offered for purchase by the auction sites and storing the data items within the host database. Fisher teaches, providing a host database in communication with the host, searching the plurality of auction sites across the network under the control of a host computer and retrieving auction information from the auction sites, wherein the auction information includes information about a selected item from at

Art Unit: 3624

least two auction sites and information about a second selected item that is in a same class as the selected item; extracting data items from the auction information, the data items comprising information associated with items offered for purchase by the auction sites and storing the data items within the host database (col. 4, lines 32-38, col. 4, lines 46-55, col. 4, lines 46-55, col. 6, lines 14-30, and col. 7, line 66-col. 8, line 14, and col. 8, lines 30-59). Together Korhammer and Fisher teach the claim limitations of claim 34.

With respect to claim 35, Korhammer failed to teach, searching the plurality of auction sites across the network under the control of the host computer comprises searching the plurality of auction sites continuously on a periodic basis. Fisher teaches, searching the plurality of auction sites across the network under the control of the host computer comprises searching the plurality of auction sites continuously on a periodic basis (col. 6, lines 17-34). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the searching the plurality of auction sites across the network under the control of the host computer comprises searching the plurality of auction sites continuously on a periodic basis and to include in Korhammer's securities trading system, in order to allow the bidders (shoppers) to view the new item for auction and to place their bids.

With respect to claim 36, Korhammer teaches, updating the host database with the data items retrieved and extracted from the auction information (col. 3, lines 17-31 and col. 5, lines 30-46).

With respect to claim 37, Korhammer teaches, wherein storing the items wherein the host database comprises sorting and arranging the data items according to a

Art Unit: 3624

hierarchy of product and service categories established by the host (col. 5, lines 58-67, col. 6, lines 1-3 and lines 36-66 and col. 9, lines 26-49).

With respect to claim 38, this dependent claim is rejected for the similar rationale as given above for claim 34.

With respect to claim 39, this independent claim is rejected for the similar rationale as given above for claim 36.

With respect to claim 40, Korhammer teaches, wherein storing the data items stored within the host database comprises storing the data items within the database according to categories established by the host computer (col. 8, lines 47-67 and col. 9, lines 1-8). Fisher teaches, wherein storing the data items stored within the host database comprises storing the data items within the database according to categories established by the host computer (col. 1, lines 12-22 and col. 10, lines 29-62). Together Korhammer and Fisher teach the claim limitations of claim 40.

With respect to claim 41, this claim is rejected for the similar rationale given for claim 40, *supra*.

With respect to claim 42, this claim is rejected for the similar rationale given for claim 38, *supra*.

With respect to claim 43, this claim is rejected for the similar rationale given for claim 39, *supra*.

With respect to claim 44, this dependent claim is rejected for the similar rationale as given above for claims 28 and 39.

Response to Arguments

6. Applicant's arguments filed 09/17/04 have been fully considered but they are not persuasive. The issues and arguments addressed below are according to the issues and arguments the best that can be understood.

Issue no. 1: Applicant Argues: Korhammer does not allow a user to specify a class of items or securities. Response: Applicant appears to be arguing their amendment to claim 1, therefore this argument is considered moot.

Issue no. 2: Applicant Argues: In Claim 25, Fisher does not suggest that an auction can operate using classes and the auction system described by Fisher does not allow a user to specify a class of items and does not support retrieving information by class. Response: Applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "an auction can operate using classes and allow a user to specify a class of items and retrieve information by class") are not recited or suggested or disclosed in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Claim 25 reads "... a host database query specifying a class of items" (prior to the amendment); searching the host database for items within the class of items, and displaying auction information with regard to the items within the class of items to the shopper by way of the host graphical user interface". The Examiner does not interpret these claim limitations to suggest or disclose "an auction

Art Unit: 3624

can operate using classes and allow a user to specify a class of items and retrieve information by class".

Issue no. 3: Applicant Argues: There is not motivation to combine Kohhammer and Fisher in the manner suggested by the Examiner and even if the references are combined, the combination does not describe the use of classes of items. Response: Applicant's argument that there is no suggestion to combine the references, the Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it is interpreted that Kohhammer teaches an auction and offering items for exchange over a network, automatically collecting and analyzing information about the items from the enterprises databases associated with a host computer ... in col. 1, lines 16-24, col. 3, line 66-col. 4, line 36, col. 6, lines 51-66 and fig. 2 (101, 17-26 -shows a host computer ...); "...; specifying a class of items" in col. 5, lines 46-57 (the posting of a best bid and offer from their proprietary and customer orders for each security in which they make a market is interpreted as specifying a class of items (stocks) and Fisher teaches an auction, an auction database, and merchandise (items). Therefore, it is interpreted that Kohhammer and Fisher are combinable because Fisher teaches the missing limitations not found in

Art Unit: 3624

Korhammer. The motivation to modify Korhammer is given for each claim limitation that Korhammer is not seen as teaching as addressed above.

Issue no. 4: Applicant Argues: Kohammer and Fisher do not, either singularly or in combination, describe the use of categories and keywords. Response: Applicant is respectfully requested to point out in the claim limitations where categories and keywords are claimed.

In conclusion: Claim 1, reading "automatically collecting and analyzing the information about the items from the enterprise databases associated with each of the enterprises by use of a host computer, the host computer being in communication with the enterprises over the network, wherein information about a selected item is collected and analyzed from at least two enterprise databases and information about a second selected item that is within a same class as the selected item is collected and analyzed" is very confusing and unclear as written. It is not understood who or what is automatically collecting and analyzing information about the items from the enterprise databases". Does Applicant mean the enterprise is collecting and analyzing information about the items from the enterprise databases" or is a "user collecting and analyzing information about the items from the enterprise databases" or an internet site or auction "collecting and analyzing information about the items from the enterprise databases"? Claim 25 has a similar problem. It is not understood or clear who or what is doing the "searching of the host database for items" and "displaying the auction information".

Applicant's preamble is lacking in clarity and understanding. The preamble reads "... enterprises offering items for exchange over a network, each enterprise maintaining

Art Unit: 3624

a separate exchange, each enterprise having an enterprise database, and each enterprise enabling shoppers to interact ...". What makes the preamble confusing and unclear is the frequent usage of "each enterprise".

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant is respectfully requested to point out and to distinctly claim the inventive concept. Applicant is also respectfully requested to point out which claim and claim limitation has the inventive concept.

The Examiner carefully drew up a correspondence of each of Applicant's claimed limitations, one or more referenced passages in Korhammer and Fisher, what is well known in the art and what is obvious to one having ordinary skill in the art at the time the invention was made.

The Examiner is entitled to give limitations their broadest reasonable interpretation in light of the Specification (see below):

2111 Claim Interpretation; Broadest Reasonable Interpretation [R-1]

>CLAIMS MUST BE GIVEN THEIR BROADEST REASONABLE INTERPRETATION

During patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification." Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA 1969).<

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Inquiries

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 703-308-7064. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 703-308-1038. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3624

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "E. Colbert", with a long horizontal flourish extending to the right.

E. Colbert
November 22, 2004